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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

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11 ILLUMINA, INC. and ILLUMINA
12 CAMBRIDGE LTD.,

13 Plaintiffs,

14 v.

15 COMPLETE GENOMICS, INC.

16 Defendant.
17

Case No. 12-cv-1465 BEN(BGS)

**STIPULATED DOCUMENT
PRODUCTION ORDER**

18 Plaintiffs and Counterclaim-defendants ILLUMINA, INC. and ILLUMINA
19 CAMBRIDGE LTD., and Defendant and Counterclaim-plaintiff Complete Genomics, Inc.
20 agree that this proposed Stipulated Document Production Order (“Production Order”) shall
21 govern the Parties in the above-captioned case (the “Litigation”).

22 **I. GENERAL PROVISIONS**

23 **A.** The Parties will make reasonable efforts to prepare responsive and non-privileged
24 data for production in accordance with the agreed-upon specifications set forth
25 below. These specifications apply to hard copy documents and electronically
26 stored information (“ESI”) that are to be produced in this Litigation. The parties
27 may agree in writing to amend any of the specifications set forth in this Order
28 without seeking leave of Court.

- 1 **B. SECURITY.** The Parties will make reasonable efforts to ensure that any
2 productions made are free from viruses and may be provided on encrypted media.
- 3 **C. CONFIDENTIALITY DESIGNATION.** Responsive documents in TIFF format
4 will be stamped with the appropriate confidentiality designations in accordance
5 with the Stipulated Protective Order in this matter. Each responsive document
6 produced in native format will have its confidentiality designation identified in the
7 filename of the native file.
- 8 **D. PRODUCTION MEDIA.** Documents shall be produced on readily accessible
9 external hard drives, DVD, or CD disks (“Production Media”). When reasonably
10 feasible, each piece of Production Media shall be labeled with (1) the producing
11 Party’s name; (2) the production date; and (3) the Bates Number range of the
12 materials contained on the Production Media.
- 13 **E. PREVIOUS PRODUCTIONS.** The Parties are currently engaged in another
14 patent infringement lawsuit regarding a different Illumina patent, *Illumina, Inc. v.*
15 *Complete Genomics, Inc.*, Case No. 3:10-cv-05542-EDL (N.D. Cal.) (the “N.D.
16 California Case”). In an effort to reduce the document production burden on the
17 Parties in this case, the Parties agree to meet and confer regarding a procedure to
18 make the same documents produced in the N.D. California Case available to the
19 Parties in this case. This provision does not apply to documents produced by third
20 parties in the N.D. California Case.

21
22 **II. DATA PROCESSING**

- 23 **A. DEDUPLICATION.** To the extent reasonably feasible, the Parties will de-
24 duplicate responsive ESI across Custodians. De-duplication may be done
25 automatically via standard techniques such as those based on MD5 or SHA-1 hash
26 values.

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1 **III. GENERAL PRODUCTION SPECIFICATIONS**

2 **A. FORMAT.** To the extent feasible, documents (whether originating in electronic or
3 hard copy format) shall be produced as single page TIFF files, documents
4 originating in hard copy format shall be converted to TIFF images by scanning with
5 at least 300 dots per inch (dpi). Each TIFF image shall be named according to the
6 corresponding Bates number associated with the document. Each image shall be
7 branded according to the Bates number and given a confidentiality designation, if
8 applicable. TIFFs shall show all text and images that would be visible to a user of
9 the hard copy documents.

10 **B. TEXT TO BE PROVIDED WITH IMAGE FILES.** For each document,
11 extracted or optical character recognition (“OCR”) text shall be provided. To the
12 extent possible, the text of native files should be extracted directly from the native
13 file. If a document has been redacted, OCR of the redacted document will suffice
14 in lieu of extracted text. Extracted or OCR text may be included in the database
15 load files or in separate files, so long as it is provided in such a manner that it can
16 be loaded into commercially acceptable production software (*e.g.*, Concordance,
17 Summation, Ipro).

18 **C. DATABASE LOAD FILES/CROSS-REFERENCE FILES.** Production shall
19 include a data load file and an image load file in a reasonable format specified by
20 the requesting party, or, if no request is made in a format that can be loaded into
21 commercially acceptable production software (*e.g.*, Concordance, Summation,
22 Ipro).

23 **D. BATES NUMBERING.** All images must be assigned a unique Bates number
24 that is sequential within a given document and across the production sets.

25 **E. REDACTION OF INFORMATION.** If documents are produced containing
26 redacted information, the producing Party shall supply a list of the documents for
27 any such claim(s) of redaction, indicating the grounds for the redaction and the
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1 nature of the redacted material. During the course of the Litigation, an electronic
2 copy of the original, unredacted data shall be securely preserved in such a manner
3 so as to preserve without modification, alteration or addition the content of such
4 data including any metadata therewith. The Stipulated Protective Order and rules
5 of the Court in this case set forth the basis for the redaction of information.

6 **F. UNITIZING OF DOCUMENTS.** Distinct documents should not be merged
7 into a single record, and single documents should not be split into multiple
8 records (*i.e.*, documents should be unitized as kept in the ordinary course of
9 business). The Parties will use reasonable efforts to unitize documents correctly.
10

11 **IV. PRODUCTION OF ELECTRONICALLY STORED INFORMATION**

12 **A. METADATA FIELDS AND PROCESSING.** E-discovery production under
13 Federal Rules of Civil Procedure 34 and 45 shall not require metadata, other than as
14 specified on Exhibit A attached, absent a showing of good cause. Any Metadata
15 that is produced shall be formatted into a basic .txt, .dat or .csv file with delimiters
16 appropriate for use with commercially acceptable review software (*i.e.*, a load file).
17 Parties may request native files be produced as described in Section IV.D. below.

18 **B. SPREADSHEETS.** The parties will produce Excel spreadsheet files in native
19 format.

20 **C. PROPRIETARY FILES.** To the extent a response to discovery requires
21 production of ESI accessible only through proprietary software, the Parties should
22 continue to preserve each version of such information. The Parties shall meet and
23 confer to finalize the appropriate production format.

24 **D. REQUEST(S) FOR ADDITIONAL NATIVE FILES.** If good cause exists to
25 request production of specified files, other than those specifically set forth above,
26 in native format, the Party shall request such production and provide an explanation
27 of the need for native file review. The Parties shall work together to provide
28 documents in reasonable useful format.

1 **V. PROCESSING OF THIRD-PARTY DOCUMENTS**

- 2 **A.** A Party that issues a subpoena requesting the production of documents (“Issuing
3 Party”) shall include a copy of this Document Production Order with the subpoena
4 and state that the Parties to the Litigation have requested that third-parties produce
5 documents in accordance with the specifications set forth herein.
6
7 **B.** The Issuing Party shall ensure that any documents it obtains pursuant to a subpoena
8 are produced to all Parties.
9
10 **C.** If the non-party production is not Bates-stamped, the Issuing Party will endorse the
11 non-party production with unique prefixes and Bates numbers prior to producing
12 them to other Parties.
13
14 **D.** Nothing in this stipulation is intended to or should be interpreted as narrowing,
15 expanding, or otherwise affecting the rights of the Parties or third parties to object
16 to a subpoena.

15 **VI. SEARCHING AND SCOPE OF PRODUCTION**

- 16 **A. SOURCES.** In responding to general requests under Federal Rules of Civil
17 Procedure 34 and 45 that call for the production of ESI, the Parties will search
18 central repositories, such as shared network drives, document databases, and shared
19 documents and files held by individuals who are designated as being responsible
20 for the maintenance and safekeeping of such documents on behalf of the company.
21 In general, the Parties shall not be required to search email or other forms of
22 electronic correspondence or custodial ESI in responding to such requests except as
23 described in Section VI.C below.¹
24 **B. SOURCES THAT NEED NOT BE SEARCHED.** The following locations will
25 not be searched under any circumstances, and as such need not be preserved, absent
26

27 ¹ As used herein, “custodial ESI” refers to ESI that is in the possession of an individual
28 custodian, rather than in central repositories.

1 a Court order upon showing of good cause: personal digital assistants, mobile
2 phones, voicemail systems, instant messaging logs, and automated disaster
3 recovery backup systems and/or disaster recovery backup tapes. In addition, the
4 parties agree that with respect to documents that automatically “autosave,” only the
5 most recent version of such documents need be searched.

6 **C. EMAIL AND CUSTODIAL ESI REQUESTS.** To obtain email or custodial ESI
7 beyond that stated in section VI(A) above, the Parties must propose and agree on
8 custodians, search terms/phrases, and time frames. The Parties shall cooperate to
9 identify the proper custodians subject to these requests and proper search
10 terms/phrases and time frames. Email and custodial ESI production shall be
11 limited to a total of no more than ten custodians and ten search terms/phrases per
12 custodian per Party.

13 ILLUMINA’S STATEMENT: Illumina proposes that it first complete its
14 production of inventor documents pursuant to Patent Local Rule 3.2 before the
15 parties further meet and confer regarding the possibility that some or all of the ten
16 inventors of the patent-in-suit may count as a single custodian if CGI deems
17 keyword searches of the e-mail and custodial ESI of multiple inventors to be
18 reasonably necessary. If the parties cannot reach agreement, they may seek the
19 Court’s guidance at that time.

20 CGI’S STATEMENT: CGI contends that it is likely all 10 inventors may
21 have relevant information relating to the patent-in-suit. As such, CGI proposes that
22 one custodian may include up to 10 inventors and count as a single custodian
23 should CGI seek such discovery.

24 The Parties may jointly agree to modify this limit without the Court’s leave. The
25 search terms/phrases shall be narrowly tailored to the particular issues in the case
26 and identified in the parties’ document requests. Indiscriminate terms/phrases,
27 such as the producing company’s name or its product name, are inappropriate
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1 unless combined with narrowing search criteria that sufficiently reduce the risk of
2 overproduction. A conjunctive combination of multiple words or phrases narrows
3 the search and shall count as a single search term/phrase. A disjunctive
4 combination of multiple words or phrases broadens the search, and thus each word
5 or phrase shall count as a separate search term unless they are variants of the same
6 word. Use of narrowing search criteria (*e.g.*, “and,” “but not,” “w/x”) is
7 encouraged to limit the production and shall be considered when determining
8 whether to shift costs for disproportionate discovery.

9 **D. COLLECTION METHODS.** The producing party need not employ forensic data
10 collection or tracking methods and technologies, but instead may make electronic
11 copies for collection and processing purposes using widely-accepted methods or
12 methods described in manufacturers’ and/or programmers’ instructions, help
13 menus, websites, and the like (*e.g.*, .pst’s, .zip’s, etc.), except when and to the
14 extent there is good cause to believe specific, material concerns about authenticity
15 exist with respect to specific documents and materials. If the receiving party
16 believes that there is such good cause, then the producing party and the receiving
17 party shall meet and confer in good faith to determine the extent to which forensic
18 and other data associated with the specific documents and materials should be
19 produced.
20

21 **VII. MISCELLANEOUS PROVISIONS**

22 **A. Objections Preserved.** Nothing in this Document Production Order shall be
23 interpreted to require disclosure information protected by the attorney-client
24 privilege, work-product doctrine, or any other applicable privilege or immunity.
25 The Parties do not waive any objections as to the production, discoverability,
26 admissibility, or confidentiality of documents and ESI.

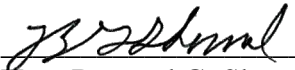
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1 **B.** Except as expressly stated, nothing in this order affects the Parties' discovery
2 obligations under the Federal or local rules.
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5 PURSUANT TO STIPULATION, IT IS SO ORDERED.

6 Dated: October 11, 2012



Hon. Bernard G. Skomal
United States Magistrate Judge

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Exhibit A

Field	Notes
BEGPROD	Production number for first page of document
ENDPROD	Production number for last page of document
BEGATTACH	Production number for first page of family
ENDATTACH	Production number for last page of family
PGCOUNT	Number of pages
DESIGNATION	Confidentiality designation
CUSTODIAN	Custodian or source of document
FROM	From (for e-mail messages)
TO	To (for e-mail messages)
CC	CC (for e-mail messages)
BCC	BCC (for e-mail messages)
SUBJECT	Subject (for e-mail messages)
DATESENT	Date Sent (for e-mail messages)
TIMESENT	Time Sent (for e-mail messages)
FILENAME	File name (for non-e-mail electronic docs)
DATECREATED	Date created (for non-e-mail electronic docs)
DATELASTMOD	Date last modified (for non-e-mail electronic docs)
TEXT	Extracted or OCR text